

Decision 01-01-017 January 4, 2001

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the  
Commission's Proposed Policies Governing  
Restructuring California's Electric Services  
Industry and Reforming Regulation.

Rulemaking 94-04-031  
(Filed April 20, 1994)

Order Instituting Investigation on the  
Commission's Proposed Policies Governing  
Restructuring California's Electric Services  
Industry and Reforming Regulation.

Investigation 94-04-032  
(Filed April 20, 1994)

**OPINION MODIFYING DECISION 97-10-087 AND DECISION 98-02-030**

**Summary**

San Diego Gas & Electric Company (SDG&E) filed a petition on August 3, 2000 to modify section P.(1)(b) of Appendix A of Decision (D.) 97-10-087, and Ordering Paragraph 2 of D.98-02-030. This decision grants SDG&E's petition to modify these two decisions as described herein.

**Background**

D.97-10-087 adopted the tariff provisions for direct access. Among the approved tariff provisions was section P.(1)(b) of Appendix A of that decision, which used to provide:

"Partial payments by customers will be allocated first to the TTA [trust transfer amount], then to other UDC [utility distribution company] charges for which delinquency may result in

disconnection, and then the balance will be prorated between the ESP [electric service provider] and UDC charges.”<sup>1</sup>

On December 2, 1997, SDG&E and Southern California Edison Company (SCE) filed a joint petition to modify section P.(1)(b) of Appendix A of D.97-10-087. In D.98-02-030, the Commission granted the joint petition for modification, and ordered that section P.(1)(b) of Appendix A of D.97-10-087 be modified and replaced with the following:

“Partial payments by customers will be allocated on a pro rata basis to the TTA and to UDC charges for which delinquency may result in disconnection, and then any balance will be prorated between the ESP and other UDC charges.”

SDG&E’s latest petition to modify seeks to modify section P.(1)(b) of Appendix A of D.97-10-087 and Ordering Paragraph 2 of D.98-02-030 with the following replacement paragraph:

“Partial payments by customers will be allocated on a prorata basis to the TTA, UDC charges, and ESP charges in the same proportion as the amount of TTA charges, SDG&E charges, and ESP charges bear to the aggregate amount of charges billed the customer. Should a customer notify SDG&E that he or she is withholding payment of ESP charges due to a billing dispute with their ESP, service will not be disconnected if the partial payment will cover the amount of UDC charges for which delinquency may result in disconnection. In the event of such a customer dispute with an ESP, SDG&E may modify the aforementioned allocation methodology and allocate the partial payment to all charges other than the ESP charges.”

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<sup>1</sup> The TTA is the name that is used on customer bills to refer to the fixed transition amount (FTA) charges that are referenced to in the four financing order decisions (D.97-09-054, D.97-09-055, D.97-09-056, and D.97-09-057) that relate to the issuance of the rate reduction bonds. (See D.97-10-087, p. 18.)

Should the petition for modification be granted, SDG&E states that it will also modify its Electric Rule 25 M.(1)(b), which currently reflects the language adopted in D.98-02-030.

### **Position Of SDG&E**

SDG&E states that the proposed modification will change the existing two-tiered system of allocating payments when UDC consolidated billing is used, to a one-tiered system. The one-tiered system will allow ESPs to recover charges owed to them on a pro rata basis with all SDG&E charges and the TTA.

SDG&E states that the current two-tiered system results in a priority system whereby the collection of ESP charges is placed in a subordinate position to the collection of TTA and UDC charges, for which delinquency may result in disconnection. SDG&E asserts that the existing language creates a situation where a customer of an ESP that fails to pay the electric commodity charge can avoid disconnection, while a bundled customer of the UDC will be disconnected for non-payment of the electric commodity charge. SDG&E contends that the only impact from the requested change is the way in which partial customer payments under consolidated UDC billing will be allocated among the charges for which the billing was rendered. Furthermore, the proposed change will more closely align customer payment requirements under consolidated billing with similar requirements for UDC bundled billing.

If the proposed change is approved, SDG&E states that it will not disconnect customer services for unpaid ESP charges, but will only disconnect customers for non-payment of UDC charges. That is, if a customer notifies SDG&E that he or she is withholding payment of ESP charges due to a billing

dispute with their ESP, SDG&E will not disconnect the customer's service if the UDC charges have been paid.

SDG&E asserts that the current two-tiered system is an impediment to the ESP's provisioning of effective and appropriate electric commodity purchase programs and services. According to the declaration attached to SDG&E's petition, the two-tiered approach is detrimental to the ESP's ability to recover charges owed to it when consolidated UDC billing is done. SDG&E contends that the proposed change is minor in nature, and that it is necessary to better facilitate and encourage ESPs to market to SDG&E's residential and small commercial customers. The proposed change will help lower the operational costs of the ESPs, which will help eliminate a barrier to providing services to small customers.

SDG&E also states that the proposed change is consistent with SDG&E's filing of Advice Letter 1242-E, the "Emergency Proposal to Implement, On an Experimental Basis, a Customer Choice Facilitation Program." The purpose of the Customer Choice Facilitation Program is to facilitate interaction between ESPs and customers who desire to use their energy procurement alternatives.

SDG&E also states that the proposed change is consistent with D.97-09-054, D.97-09-055, D.97-09-056, and D.97-09-057, the four financing order decisions, and with all pertinent bond financing transaction documents.

In response to Rule 47(d) of the Commission's Rules of Practice and Procedure, SDG&E states that it could not have filed this petition for modification within one year from the issuance of D.98-02-030 because it did not have the information and an understanding of the ESPs' ability to penetrate various market segments, and the hurdles which ESPs face to provide products and services to small customers effectively.

## **Comments**

On September 5, 2000, the Alliance For Retail Markets (ARM) filed its comments in support of SDG&E's petition to modify. ARM is composed of an alliance of ESPs who actively participate in California's electric market. According to its comments, on a customer usage basis, the ESPs in ARM serve a significant portion of California's direct access market.

ARM states that the proposed changes will better facilitate the ability of ESPs to market to SDG&E's residential and small commercial customers, and to provide constructive and effective solutions to the high prices observed in SDG&E's service territory.

## **Comments on Draft Decision**

The draft decision of the administrative law judge in this matter was mailed to the parties in accordance with Section 311(g)(1) of the Public Utilities Code and Rule 77.7 of the Rules of Practice and Procedure. Comments to the draft decision were filed by SCE on November 1, 2000. Although SCE does not oppose SDG&E's petition to modify, it does oppose the draft decision's recommendation to apply the modification to SCE.

SCE did not respond to SDG&E's petition to modify because it felt that SDG&E had clearly requested that the proposed changes would only apply to SDG&E. It was not until the issuance of the draft decision that SCE realized that the proposed changes would also affect SCE. As a result of SCE's comments to the draft decision, an Administrative Law Judge's (ALJ) was issued on November 28, 2000. This ruling solicited comments on the issues raised by SCE.

Comments in response to the ruling were filed by SDG&E, SCE, and Pacific Gas and Electric Company (PG&E). Reply comments were filed by the Office of Ratepayer Advocates (ORA). Today's decision reflects the comments

made by SCE and the other parties who filed comments pursuant to the ALJ ruling.

## **Discussion**

No one has objected to the proposed change by SDG&E, and at least some ESPs, through the comments of ARM, support SDG&E's petition.<sup>2</sup>

We agree with SDG&E that the proposed change will provide ESPs with an incentive to offer direct access using UDC consolidated billing. The proposed change will allow ESPs to receive a pro rata share of the monies collected, instead of the current procedure, where a partial payment results in a pro rata allocation to the TTA and UDC charges for which delinquency may result in disconnection, and then any remaining balance is prorated between the ESP and other UDC charges.<sup>3</sup>

The proposed modification will provide the ESPs with assurance that under UDC consolidated billing, the ESP will receive some monies in the event the customer makes a partial payment. However, if the customer notifies the UDC that it is withholding payment of ESP charges due to a billing dispute with the ESP, then the ESP will not receive any monies from the customer because the UDC may modify the allocation methodology so that the partial payment is applied to all charges other than the ESP service.

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<sup>2</sup> As noted above, SCE is opposed to the draft decision's recommendation to apply the proposed changes to SCE. ORA is also opposed to the proposed changes because of the potential for a greater number of shutoffs.

<sup>3</sup> On the issue of disconnection, we note that in Ordering Paragraph 3 of D.00-08-021, SDG&E was ordered not to disconnect service to any customer as a result of the 2000 summer price spikes. SDG&E then filed an advice letter to implement the order.

SDG&E's petition was filed more than one year after the effective date of D.97-10-087 and D.98-02-030. SDG&E has justified in its petition why it did not file its petition to modify sooner.

We note that SDG&E's proposed modification makes several specific references to SDG&E. Appendix A of D.97-10-087 was intended to apply to all of the UDCs except for deviations permitted by the Commission. The proposed language change to Section P.(1)(b) would affect both SDG&E and SCE. (See D.97-10-087, pp. 51-52.) However, in light of SCE's comments to the draft decision, the language change proposed by SDG&E should only apply to SDG&E.

SDG&E's petition to modify should be granted. SDG&E should be permitted to deviate from Section P.(1)(b) of Appendix A of D.97-10-087, as modified by Ordering Paragraph 2 of D.98-02-030.

SDG&E shall be permitted to use the following tariff language to allocate partial payments:

“Partial payments by customers will be allocated on a pro rata basis to the TTA, UDC charges, and ESP charges in the same proportion as the amount of TTA charges, SDG&E charges, and ESP charges bear to the aggregate amount of charges billed the customer. Should a customer notify SDG&E that he or she is withholding payment of ESP charges due to a billing dispute with their ESP, service will not be disconnected if the partial payment will cover the amount of UDC charges for which delinquency may result in disconnection. In the event of such a customer dispute with an ESP, SDG&E may modify the aforementioned allocation methodology and allocate the partial payment to all charges other than the ESP charges.”

The ALJ ruling and ORA expressed a concern that SDG&E's tariff change may result in additional customer shutoffs because of the change in the allocation method. We are satisfied that this deviation will not result in a

significant increase in the number of direct access customers who are disconnected. As SDG&E notes in its comments to the ALJ ruling, less than 0.5% of SDG&E's customers are actually disconnected.

### **Findings of Fact**

1. SDG&E filed a petition to modify D.97-10-087 and D.98-02-030 on August 3, 2000.
2. The tariff provisions for direct access were adopted in Appendix A of D.97-10-087.
3. D.98-02-030 granted the petition to modify section P.(1)(b) of Appendix A of D.97-10-087.
4. SDG&E's petition to modify seeks to modify section P.(1)(b) of Appendix A of D.97-10-087, as modified by D.98-02-030, and Ordering Paragraph 2 of D.98-02-030.
5. ARM filed comments in support of SDG&E's petition to modify on September 5, 2000.
6. Comments to the draft decision were filed by SCE, and an ALJ ruling was issued inviting additional comment on the issues raised by SCE.
7. The proposed change will provide the ESPs with assurance that under UDC consolidated billing, the ESPs will receive a pro rata share of the monies collected in the case of partial payments.
8. SDG&E has justified why it did not file its petition to modify within one year of the effective date of the two decisions.
9. SDG&E's proposed modification makes several specific references to SDG&E.



10. SDG&E's deviation from Section P.(1)(b) of Appendix A of D.97-10-087, as modified, will not result in a significant increase in the number of direct access customers who are actually disconnected.

### **Conclusions of Law**

1. In light of SCE's comments, the modification proposed by SDG&E should only apply to SDG&E.
2. SDG&E should be permitted to deviate from Section P.(1)(b) of Appendix A of D.97-10-087, as modified by Ordering Paragraph 2 of D.98-02-030.

### **ORDER MODIFYING DECISION 97-10-087 AND DECISION 98-02-030**

1. The petition to modify Decision (D.) 97-10-087 and D.98-02-030 filed by San Diego Gas & Electric Company (SDG&E) on August 3, 2000, is granted as set forth below.
2. SDG&E shall be permitted to deviate from Ordering Paragraph 2 of D.98-02-030 and Section P.(1)(b) of Appendix A of D.97-10-087 using the following tariff language:

“Partial payments by customers will be allocated on a pro rata basis to the TTA, UDC charges, and ESP charges in the same proportion as the amount of TTA charges, UDC charges, and SDG&E charges bear to the aggregate amount of charges billed the customer. Should a customer notify SDG&E that he or she is withholding payment of ESP charges due to a billing dispute with their ESP, service will not be disconnected if the partial payment will cover the amount of UDC charges for which delinquency may result in disconnection. In the event of such a customer dispute with an ESP, SDG&E may

modify the aforementioned allocation methodology and allocate the partial payment to all charges other than the ESP charges.”

This order is effective today.

Dated January 4, 2001, at San Francisco, California.

LORETTA M. LYNCH

President

HENRY M. DUQUE

RICHARD A. BILAS

CARL W. WOOD

JOHN R. STEVENS

Commissioners